

ESTTA Tracking number: **ESTTA536593**

Filing date: **05/07/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Gina Keesling
Granted to Date of previous extension	05/18/2013
Address	13849 N 200 E Alexandria, IN 46001 UNITED STATES
Party who filed Extension of time to oppose	GinaKeesling
Relationship to party who filed Extension of time to oppose	Added Space between names

Correspondence information	Gina Keesling dba HoofPrints, Hoofprints.com and Farriers Greeting Cards 13849 N 200 E Alexandria, IN 46001 UNITED STATES jdritchison@comcast.net Phone:7656404134
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### Applicant Information

Application No	85751592	Publication date	03/19/2013
Opposition Filing Date	05/07/2013	Opposition Period Ends	05/18/2013
Applicant	Buffalo Sky, LLC 3811 US Highway 87 Banner, WY 82832 UNITED STATES		

### Goods/Services Affected by Opposition

Class 014. First Use: 2012/09/00 First Use In Commerce: 2012/09/00 All goods and services in the class are opposed, namely: Bracelets; Jewelry
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Priority and likelihood of confusion based on

	Opposer's common law trademark rights.
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## Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85919270	Application Date	04/30/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOOFPRIENTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1996/09/16 First Use In Commerce: 2001/08/16 Bracelets; Bracelets; Bracelets of precious metal; Broaches; Brooches; Charms; Equine necklaces; Jewelry; Jewelry and imitation jewelry; Jewelry brooches; Necklaces; Tie tacks		

U.S. Application No.	85919120	Application Date	04/30/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOOFPRIENTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 008. First use: First Use: 1996/09/16 First Use In Commerce: 2001/08/16 Folding knives; Hand tools, namely, knives; Knives; Knives pocket; Pocket knives		

U.S. Application No.	85919197	Application Date	04/30/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOOFPRIENTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1996/09/16 First Use In Commerce: 2001/08/16 Art prints; Art prints comprised of digital illustrations originating from photographs; Bibles; Books in the field of horses and riding; Christmas cards; Gift books featuring horses and riding; Greeting cards; Greeting cards featuring horses and riding; Greeting cards having a Christian message; Holiday cards; Letter openers; Paintings; Paintings and calligraphic works; Paintings and their reproductions; Photographic prints; Photographs that have been computer manipulated and enhanced to look like paintings; Printed matter, namely, paper signs, books, manuals, curriculum, newsletters, informational cards and brochures in the field of horses and riding; Watercolours		

U.S. Application No.	85919233	Application Date	04/30/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HOOFPRIINTS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/09/16 First Use In Commerce: 2001/08/16 Baseball caps and hats; Caps; Gloves as clothing; Hats; Headbands for clothing; Hooded sweatshirts; Hoods; Jackets; Jerseys; Sweatshirts; Tee shirts; Tops; Vests

Attachments	opposition Keesling brief to 85751592 05072013.pdf(1588977 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/johndritchison/
Name	John D Ritchison
Date	05/07/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re application serial no. 85751592  
ESTTA Tracking number: ESTTA527495  
Filed on October 15, 2012

Gina Keesling	)	
	)	
Opposer,	)	
	)	Opposition No. _____
v.	)	
	)	
Buffalo Sky, LLC	)	
	)	
Applicant.	)	

Trademark Trial and Appeal Board  
United States Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 13-1451

**NOTICE OF OPPOSITION**

Gina Keesling, a sole proprietor doing business as (d/b/a) HoofPrints, Hoofprints.com and Farriers' Greeting Cards, with a principal place of business of 13849 N 200 E Alexandria, N 46001, (hereinafter "Opposer"), having filed timely extensions of time to oppose **[see Exhibit I]**, hereby believes that she is being damaged and will continue to be damaged by the above identified application for the mark HOOFPRINTS (standard character mark) in International Class 14 shown in U.S. serial no. **85751592** **[see Exhibit A]**, and hereby opposes the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for opposition, it is alleged that:

### **I. Common Facts and Background:**

1. Buffalo Sky, LLC, a limited liability company of Wyoming (hereinafter "Applicant") is the current listed Owner of record of the application for the mark HOOFPRIENTS (standard character mark) as identified in U.S. Serial No. **85751592** ("Applicant's application") that is seeking registration in connection with "Bracelets, Jewelry," in International Class 14. Applicant's last known address of record as indicated on the USPTO's TARR database is 3811 US Highway 87 Banner WYOMING 82832.

2. Opposer Keesling (hereinafter "Opposer" or "Keesling") owns common law trademark rights throughout the United States for the mark HOOFPRIENTS. Opposer has consistently used the mark HOOFPRIENTS in interstate commerce (in various classes) since at least as early as **September 16, 1996** or well before – the said Opposer's use is well before the application filing date of Applicant's filing basis 1A "use" date of **September 2012** in conjunction with a Class 014 filing. Opposer therefore claims priority rights for this mark. Opposer use and classes include [See Exhibit B]:

A. Serial No. **85,919,270** - International **Class 014** – short title 14 Jewelry. Opposer's use is: Bracelets; Bracelets of precious metal; Broaches; Brooches; Charms; Equine necklaces; Jewelry and imitation jewelry; Jewelry brooches; Necklaces; Tie tacks.

B. Serial No. **85,919,120** – International **Class 008** – short title Hand tools. Opposer's use is: Folding knives; Hand tools, namely, knives; Knives; Knives pocket; Pocket knives.

C. Serial No. **85,919,197** – International **Class 016** – short title Paper goods and printed matter. Opposer's use is: Art prints; Art prints comprised of digital illustrations originating from photographs; Bibles; Books in the field of horses and riding; Christmas cards; Gift books featuring horses and riding; Greeting cards; Greeting cards featuring horses and riding; Greeting cards having a Christian message; Holiday cards; Letter openers; Paintings; Paintings and calligraphic works; Paintings and their reproductions; Photographic prints; Photographs that have been computer manipulated and enhanced to look like paintings; Printed matter, namely, paper signs, books, manuals, curriculum, newsletters, informational cards and brochures in the field of horses and riding; and Watercolors.

- D. Serial No. **85,919,233** – International Class **025** – short title Clothing. Opposer's use is: Baseball caps and hats; Caps; Gloves as clothing; Hats; Headbands for clothing; Hooded sweatshirts; Hoods; Jackets; Jerseys; Sweatshirts; Tee shirts; Tops; Vests
3. Prior to filing its applications serial numbers 85,919,120, 85,919,197, 85,919,233, and 85,919,270 Opposer Gina Keesling became aware of Applicant's Application serial number 85751592 via a search of the U.S. trademark register.
4. On the basis of similarities in appearance (identical) and fields of usage (IC 014), Opposer has a reasonable belief and is in fact certain that Applicant's prior filed application will be cited as a Section 2(d) "likelihood of confusion" conflict refusal against Opposer's HOOFPRIENTS application 85,919,270 – Class 14 upon its eventual examination by the USPTO. Opposer Keesling has a reasonable belief that Applicant's prior filed application will likely be cited as a Section 2(d) "likelihood of confusion" conflict refusal against the other applications [85,919,120, 85,919,197, and 85,919,233]. Opposer therefore has **standing** to file this opposition as the registration of its HOOFPRIENTS mark in Classes 14, 8, 16, and 25 (as identified in Serial Numbers 85,919,233, 85,919,120, 85,919,197, and 85,919,270 may/will be refused (causing irreparable damage and injury to Opposer) if serial number 85751592 in Class 014 is not successfully opposed and ultimately refused registration.
5. Opposer seeks to identify and stop perceived infringers of Opposer's HOOFPRIENTS mark.

## **II. Grounds – Likelihood of Confusion – Section 2(d) of the Trademark Act and Priority of Use**

6. Opposer Keesling incorporates by reference the Rhetorical Paragraphs 1 through 5 of its Opposition as though the same were repeated herein verbatim.
7. The mark depicted in Applicant's application so resembles a mark previously and continuously used in the United States by Opposer and not abandoned, as to be likely, when used on or in connection with the goods or services (IC 014) of Applicant, to cause confusion, or to cause mistake, or to deceive.
8. Opposer has continued to exploit, use and further develop the HOOFPRIENTS mark on an ongoing basis by an interstate mail-order business, by developing and using it on an ecommerce website prior to the filing date [See Exhibit C and D] of Applicant's application, by being featured on a website and by other believed methods which will be fully confirmed by discovery.

9. For many years, and before August 16, 2001, the date of first use in commerce alleged in the above-identified application ("Application"), and September, 2012, the filing date of the Application, Opposer, directly through its subsidiaries and its predecessors in interest, has used the trademark HOOFPRIINTS ("Opposer's HOOFPRIINTS Mark") on and in connection with Jewelry, in Class 14; Hand tools and knives, in class 8; Paper goods and printed matter, in class 16; and clothing, in class 26. [See Exhibit E Old Catalog and F Recent Catalog and Jewelry Web Page].

10. During its long and continuous use of Opposer's HOOFPRIINTS Mark, Opposer, directly through its own and its predecessors in interest, has expended considerable time, effort, and money in connection with the distribution, and sale of Jewelry, in Class 14; Hand tools and knives, in class 8; Paper goods and printed matter, in class 16; and clothing, in class 26 under Opposer's HOOFPRIINTS Mark.

11. Opposer, directly through its own and its predecessors in interest, has sold, and offered for sale, goods bearing Opposer's HOOFPRIINTS Mark in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.

12. Opposer, directly through its own and its predecessors in interest, has sold, and offered for sale, goods bearing Opposer's HOOFPRIINTS Mark in various channels of trade.

13. Opposer's HOOFPRIINTS Mark has a high degree of distinctiveness due to the duration and extent of its use by Opposer, directly through its subsidiaries and its predecessors in interest, and the volume of sales in Jewelry, in Class 14; Hand tools and knives, in class 8; Paper goods and printed matter, in class 16; and clothing, in class 26 under the HOOFPRIINTS imprint.

14. These goods for which Applicant seeks registration in Class 014 are similar to the goods in connection with which Opposer's HOOFPRIINTS Mark is in use.

15. Applicant filed this application on October 11, 2012, many years after Opposer and its predecessors in interest started using Opposer's HOOFPRIINTS Mark.

16. If Applicant's application (85751592) is not successfully opposed, Applicant will then own the *Prima facie* exclusive right to use the HOOFPRIINTS mark in International Class 14 in connection with goods that the Examining Attorney will certainly deem "confusingly similar" to Opposer's HOOFPRIINTS goods with respect to class 014 as they are identical. Such a registration would be a source of damage and injury to Opposer as it would prevent the USPTO from issuing a registration to Opposer based on its pending application serial number 85,919,270.

Potentially applications 85,919,120, 85,919,197, and 85,919,233 may also be negatively impacted.

**17.** Opposer has valuable interest in the mark “HoofPrints” and will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give the color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

**18.** Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d) on the grounds that the designation HOOFPRIINTS so resembles Opposer's HOOFPRIINTS Mark used consistently by Opposer and its predecessors in interest in the United States, as to be likely, when used on or in connection with the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Oppose and to the public.

**19.** Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a) on the grounds that Applicant's use of the designation HOOFPRIINTS will falsely suggest a connection between Applicant and Opposer named herein, to the damage of Opposer.

**20.** In view of

(a) the substantial similarity (in fact identical appearances) between the respective marks (serial numbers 85,919,233, 85751592 and 85,919,120, 85,919,197, and 85,919,270),

(b) the Opposer's certain and provable date of first use and prior use in commerce predates the Applicant,

(c) the commercial relationship between the goods/services at issue, and

(d) the fact that registration of Applicant's mark will cause actual harm to Opposer,

registration of the HOOFPRIINTS mark to Applicant in class 14, must be refused and rejected pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer Keesling believes it will be damaged by the registration of Applicant's HOOFPRIINTS designation for the goods identified in Application Serial Number 85751592 and respectfully requests that the opposition be sustained and registration of said designation be denied.

Respectfully Submitted,  
By: /jdritchison/  
John D. Ritchison Attorney for



### **III. Grounds – Dilution – Section 43(c) of the Trademark Act**

- 21.** Opposer Keesling incorporates by reference the Rhetorical Paragraphs 1 through 20 of its Opposition as though the same were repeated herein verbatim.
- 22.** Applicant's HOOFPRIINTS mark is substantially similar to Opposer's HOOFPRIINTS Marks in appearance, sound and commercial impression. By virtue of the Opposer's extensive and continuous use of the HOOFPRIINTS mark, the mark throughout the United States (in connection with a wide variety of goods), the public has come to attribute strong secondary meaning to the HOOFPRIINTS Marks. The public widely perceives the mark as indicators that the products carrying such Marks come from the same source or are authorized, sponsored or endorsed by that source - namely Opposer Keesling.
- 23.** Opposer's HOOFPRIINTS Marks are famous among the general consuming public of the United States within the meaning of 15 U.S.C. §1125(c).
- 24.** The goods for which Applicant seeks to register the HOOFPRIINTS mark and the goods for which Opposer has used the HOOFPRIINTS Marks are identical or otherwise closely related International Class 14, namely jewelry.
- 25.** The goods and services for which Opposer has used and registered the HOOFPRIINTS Marks and the goods and services for which Applicant seeks to register the HOOFPRIINTS mark are likely to be sold and distributed through identical channels of trade.
- 26.** The goods and services for which Opposer has used and registered the HOOFPRIINTS Marks and the goods and services for which Applicant seeks to register the HOOFPRIINTS mark are likely to be promoted and sold to the same if not identical classes of consumers.
- 27.** The proposed use and registration by the Applicant of the HOOFPRIINTS mark for the goods identified in Ser. No. 85751592 is likely to cause dilution of the distinctive quality of Opposer's famous HOOFPRIINTS Marks in violation of 15 U.S.C. §§1063(a) and 1125(c).
- 28.** Because Applicant's mark is identical to Opposer's mark, if Applicant is permitted to use and register Applicant's mark for its goods, as specified in the Application herein opposed, confusion among consumers and in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's mark and Opposer's mark.

WHEREFORE, Opposer Keesling believes it will be damaged by the registration of Applicant's HOOFPRIENTS designation for the goods identified in Application Serial Number 85751592 and respectfully requests that the opposition be sustained and registration of said designation be denied.

Respectfully Submitted,  
By: /jdritchison/  
John D. Ritchison Attorney for  
Opposer Gina Keesling  
May 7, 2013

#### **IV. Grounds – Fraud on the Trademark Office – Use ® and Declaration**

**29.** Opposer Keesling incorporates by reference the Rhetorical Paragraphs 1 through 28 of its Opposition as though the same were repeated herein verbatim.

**30.** On October 11, 2012, Applicant's attorney - MATTHEW H. SWYERS - submitted a declaration [see **Exhibit H**] pursuant 18 U.S.C. Section 1001 with its application signed for the USPTO for application Serial number 85751592 in which it stated basically that ...

"The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051 (b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true."

Applicant's attorney M. Swyers statement left Applicant declaring that to the best of the declarant's knowledge and belief, there were no other prior users of a similar/identical mark.

[Copy of Applicant's application serial number 85751592 including the signed declaration of its attorney is in the Trademark data base and incorporated as Exhibits herein.

**31.** Based on information readily obtainable to the general public via internet searches, Opposer alleges on information and belief that Applicant's application, which indicates in its signed

declaration that it did not know of the Opposer's prior use in commerce of the HOOFPRIENTS mark was submitted on a knowingly false basis (with the specific intent to deceive the USPTO) as Applicant **must have known** of Opposer's prior use in commerce of HOOFPRIENTS prior to the submission of the use application on October 11, 2012.

**32.** On information and belief, Opposer alleges the following specific statements of fact (lettered alphabetically) upon which the belief of Applicant's mistaken if not fraudulently submitted application is reasonably based. On information and belief, the following available facts that form the basis for Opposer's belief, were known by Applicant prior to the filing of Applicant's application, which establish the fraudulent nature of the application submission. Opposer alleges that the confirmation of Applicant's knowledge of these facts prior to its application filing is likely to be obtained from it after a reasonable opportunity for discovery and/or investigation.

A. The domain namely www.hoofprints.com was registered on September 16, 1996 and it is common if not standard procedure for a business to search domain name availability prior to filing a trademark that is identical to the domain name. Said domain name registration was well over ten years prior to the filing of Applicant's application. [See **Exhibit C** original registration details of HoofPrints.com and see **Exhibit D** transfer of domain to Opposer Keesling].

B. The Applicant is currently using the mark circle R - ® - on its website [**Exhibit G**], which is contrary and improper use of the federal registration symbol, ®. This use is deliberate and intends to deceive or mislead the public or the USPTO. This improper use is fraud. See Copelands' Enterprises Inc. v. CNV Inc., 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991); Wells Fargo & Co. v. Lundeen & Associates, 20 USPQ2d 1156 (TTAB 1991). See also Section 906 of the U.S. Patent and Trademark Office's Trademark Manual of Examining Procedure (TMEP) and recognize: the federal registration symbol should be used only on or in connection with the goods or services that are listed in the federal registration; the federal registration symbol may not be used with marks that are not actually registered in the USPTO; and even if an application is pending, the federal registration symbol may not be used until the mark is registered. Further, the Federal Circuit has held: "The improper use of a registration notice in connection with an unregistered mark, if done with intent to deceive the purchasing public or others in the

trade into believing that the mark is registered, is a ground for denying the registration of an otherwise registrable mark. Op. Cit. Copelands' .

C. The "Fall 2012" and "Spring" mailing for the Opposer's mail order catalog was to over 120,000 recipients throughout the United States, including many in Wyoming. [See **Exhibit F**].

On information and belief, Opposer alleges that the above outlined facts (listed as paragraphs A through C") were known by Applicant prior to the filing of Applicant's application. Opposer alleges that the confirmation of Applicant's knowledge of the above referenced facts prior to application filing will quickly be obtained after a reasonable opportunity for discovery and/or investigation.

**33.** Based on the above referenced statement of facts in Paragraph Number **32**, Opposer alleges that Applicant procured approval for publication for Serial No. 85751592 by false means and/or by knowingly, willfully and intentionally making false and/or fraudulent declarations or representations to the USPTO (with the specific intent to deceive the USPTO) including, falsely alleging, through its attorney, in the original application filed on October 11, 2012 that Applicant was not aware of (inter alia) any "other person, firm, corporation, or association [that] has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive." ("[that]" added for clarity). On information and belief, Opposer alleges that the willfully fraudulent declaration submitted with Applicant's application was filed with the specific intent to obtain something that Applicant would not otherwise have been entitled to, namely, a federal trademark registration for the mark HoofPrints that it knew was already being used in interstate commerce by Opposer for identical and/or confusingly similar goods/ services.

**34.** On information and belief, the conduct of Applicant's Signatory constitutes fraud on the Trademark Office, and application Ser. No. 85751592 should be denied registration. For the reasons set forth above, Opposer believes and believing asserts that it will be damaged by the registration of Ser. No. 85751592 - HOOFPRIANTS.

WHEREFORE, Opposer Keesling believes it will be damaged by the registration of Applicant's HOOFPRIANTS designation for the goods identified in Application Serial Number

85751592 and respectfully requests that the opposition be sustained and registration of said designation be denied.

Respectfully Submitted,  
By: /jdritchison/  
John D. Ritchison Attorney for  
Opposer Gina Keesling  
May 7, 2013

Pursuant to 37 C.F.R. § 2.6(a)(17), Opposer respectfully notes that the three hundred dollar (\$300.00) statutory filing fee is paid by credit card at the time of filing, May 7, 2013.

Respectfully Submitted,  
By: /jdritchison/  
John D. Ritchison Attorney for  
Opposer Gina Keesling  
May 7, 2013

#### **CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2013, I caused a copy of the foregoing "Notice of Opposition" to be served, via first-class mail, postage pre-paid, on:

MATTHEW H. SWYERS, ESQ.  
THE TRADEMARK COMPANY  
344 MAPLE AVE W STE 151  
VIENNA, VIRGINIA 22180-5612

Buffalo Sky, LLC  
c/o Jill E Moriarty, Resident Agent  
3811 US Highway 87  
Banner WYOMING 82832

Respectfully Submitted,  
By: /jdritchison/  
John D. Ritchison Attorney for  
Opposer Gina Keesling  
May 7, 213

John D Ritchison  
Ritchison Law Offices, PC  
115 east Ninth Street, STE A  
Anderson, IN 46016  
UNITED STATES  
[jdritchison@comcast.net](mailto:jdritchison@comcast.net)

## **Exhibits**

- A. Applicant's application**
- B. Opposer's Applications**
- C. Opposer's Original Domain Registration**
- D. Opposer's Transfer of Domain**
- E. Opposer's Old Use Mailing – Circa 1996**
- F. Opposer's Fall 2012 Mailing & Jewelry**

### **Web Page**

- G. Applicant's Misuse on Website**
- H. Applicant's Signature Page**
- I. Opposer's Approved Extension to Oppose**

## Exhibit A-- Applicant's Application

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# HOOFPRI

Word Mark	HOOFPRI
Goods and Services	IC 014. US 002 027 028 050. G & S: Bracelets; Jewelry. FIRST USE: 20120900. FIRST USE IN COMMERCE: 20120900
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	<b>85751592</b>
Filing Date	October 11, 2012
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	March 19, 2013
Owner	(APPLICANT) Buffalo Sky, LLC LIMITED LIABILITY COMPANY WYOMING 3811 US Highway 87 Banner WYOMING 82832
Attorney of Record	Matthew H. Swyers, Esq.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

# Exhibit B-- Opposer's Applications

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# HoofPrints

<b>Word Mark</b>	HOOFPRI <del>NTS</del>
<b>Goods and Services</b>	IC 008. US 023 028 044. G & S: Folding knives; Hand tools, namely, knives; Knives; Knives pocket; Pocket knives. FIRST USE: 19960916. FIRST USE IN COMMERCE: 20010816
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85919120
<b>Filing Date</b>	April 30, 2013
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Owner</b>	(APPLICANT) Gina Keesling INDIVIDUAL UNITED STATES 13849 N 200 E Alexandria INDIANA 46001
<b>Attorney of Record</b>	JOHN D RITCHISON
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# HoofPrints

<b>Word Mark</b>	HOOFPRI <del>NTS</del>
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: Art prints; Art prints comprised of digital illustrations originating from photographs; Bibles; Books in the field of horses and riding; Christmas cards; Gift books featuring horses and riding; Greeting cards; Greeting cards featuring horses and riding; Greeting cards having a Christian message; Holiday cards; Letter openers; Paintings; Paintings and calligraphic works; Paintings and their reproductions; Photographic prints; Photographs that have been computer manipulated and enhanced to look like paintings; Printed matter, namely, paper signs, books, manuals, curriculum, newsletters, informational cards and brochures in the field of horses and riding; Watercolours. FIRST USE: 19960916. FIRST USE IN COMMERCE: 20010816
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85919197
<b>Filing Date</b>	April 30, 2013
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Owner</b>	(APPLICANT) Gina Keesling INDIVIDUAL UNITED STATES 13849 N 200 E Alexandria INDIANA 46001
<b>Attorney of Record</b>	JOHN D RITCHISON
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE



TESS was last updated on Sat May 4 02:29:09 EDT 2013

TESS Home NEW USER STRUCTURED FILE FORM Renewal form SEARCH OG Bottom HELP

Logout Please logout when you are done to release system resources allocated for you.

## Record 1 out of 1

TSDB ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

# HoofPrints

Word Mark	HOOFPRINTS
Goods and Services	IC 025. US 022 039. G & S: Baseball caps and hats; Caps; Gloves as clothing; Hats; Headbands for clothing; Hooded sweatshirts; Hoods; Jackets; Jerseys; Sweatshirts; Tee shirts; Tops; Vests. FIRST USE: 19960916. FIRST USE IN COMMERCE: 20010816
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85919233
Filing Date	April 30, 2013
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Gina Keesling INDIVIDUAL UNITED STATES 13849 N 200 E Alexandria INDIANA 46001
Attorney of Record	JOHN D RITCHISON
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

TESS was last updated on Sat May 4 02:29:09 EDT 2013

TESS Home NEW USER STRUCTURED FILE FORM Renewal form SEARCH OG Bottom HELP

Logout Please logout when you are done to release system resources allocated for you.

## Record 1 out of 1

TSDB ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

# HoofPrints

Word Mark	HOOFPRINTS
Goods and Services	IC 014. US 002 027 028 050. G & S: Bracelets; Bracelets; Bracelets of precious metal; Broaches; Brooches; Charms; Equine necklaces; Jewelry; Jewelry and imitation jewelry; Jewelry brooches; Necklaces; Tie tacks. FIRST USE: 19960916. FIRST USE IN COMMERCE: 20010816
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85919270
Filing Date	April 30, 2013
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Gina Keesling INDIVIDUAL UNITED STATES 13849 N 200 E Alexandria INDIANA 46001
Attorney of Record	JOHN D RITCHISON
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

## Exhibit C-- Opposer's Original Domain Registration Circa 1996

The screenshot displays the Plot IP website interface. At the top, the navigation bar includes links for Home, Domain Names, IP Addresses, FAQs, and Contact Us, along with a search bar labeled 'Enter a Domain or IP Address'. A promotional banner for 'Promote YouTube Video' is visible, featuring the URL 'vireol.com/video-promotion' and a starting price of '\$10 per campaign'. Below this, a breadcrumb trail shows the path: 'Domain Names > H > honolulu... > hostcentrix > hoodverfact... > hoogervorst > hoofprintofthe... > hoofprintsurfa... > hoofprints.com'. The main heading is 'Domain: hoofprints.com', followed by social media sharing icons. The content is organized into three columns. The first column, 'HOST DETAILS: HOOFPRI...'. The second column, 'DOMAIN DETAILS: HOOFPRI...'. The third column contains an advertisement for 'GX247 Online Tech Support' with the text 'Affordable, Fast Service' and a 'CALL NOW!' button. Below the domain details, there is a 'Job Openings' section with the URL 'www.findtherightjob.com' and the text 'Find Job Openings In Your Area. Apply For a Position Today!'. The bottom left section, 'SITE DETAILS: HOOFPRI...', provides information about the website's title, description, category, keywords, and a 'Plot IP Analysis'. The analysis states that the domain is hosted from IP address 209.43.112.7 and is the only domain hosted from this IP address. The bottom right section features a map of Indiana with a red pin marking the location of Indianapolis. A callout box on the right side of the image points to the 'Date Registered: September 16, 1996' entry in the domain details, with the text 'Orig Domain' and '9/16/1996'.

**Plot IP** your source for web information

Home Domain Names IP Addresses FAQs Contact Us Enter a Domain or IP Address

**Promote YouTube Video**  
vireol.com/video-promotion  
Starting at just \$10 per campaign Get your video seen by real people

Domain Names > H > honolulu... > hostcentrix > hoodverfact... > hoogervorst > hoofprintofthe... > hoofprintsurfa... > hoofprints.com

**Domain: hoofprints.com**

**HOST DETAILS: HOOFPRI...**

IP Address: 209.43.112.7  
IP Block: 209.43.104.0 - 209.43.114.255  
Reverse DNS: hoofprints.com  
Host: IQuest Network Services, Indianapolis, IN, USA  
Location: Indianapolis, IN, USA  
Page Load Time: 0.192 secs.  
Server Type: Apache/2.2.3

**DOMAIN DETAILS: HOOFPRI...**

Date Registered: September 16, 1996  
Date Expires: September 15, 2018  
Registration Length: 22 Years  
WHOIS Server: whois.tucows.com  
Domain Status: Active  
Registrar: TUCOWS DOMAINS INC.  
Domain Suffix: .com  
Nameservers: ns1.lightboundhosting.com, ns112.lightboundhosting.com

**Job Openings**  
www.findtherightjob.com  
Find Job Openings In Your Area. Apply For a Position Today!

**SITE DETAILS: HOOFPRI...**

Title: Farmers' Greeting Cards - Hoofprints  
Description: No Information Available  
Category: No Information Available  
Keywords: No Information Available  
Plot IP Analysis: The domain hoofprints.com is hosted from IP address 209.43.112.7, having reverse-lookup hoofprints.com and inward-pointing nameservers ns1.lightboundhosting.com, ns2.lightboundhosting.com, and ns113.lightboundhosting.com. According to our records, hoofprints.com is the only domain hosted from this IP address. The server hosting hoofprints.com is located in a data center in Indianapolis, IN, United States. Judged by traffic volume, hoofprints.com is ranked 78,056th among all websites by Quantcast.

**Orig Domain**  
9/16/1996

## Exhibit D-- Opposer's Transfer of Domain Circa 2001



### **HOOFPRINTS**

PO Box 1917  
Lenox, MA 01240  
phone 800-741-5054

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## **799-171D PRIORITY ISP CHANGE**

**ATTN: STEVE BOYD**  
**re: #1-OC3DS**

I authorize Verisign to modify **Hoofprints.com** as follows:

**1. Replace current servers with:**


Prime Name Server  
Primary Server Hostname.....ns1.iquest.net  
Primary Server Netaddress...198.70.36.70

Secondary Name Server(s)  
Secondary Server Hostname...ns2.iquest.net  
Secondary Server Netaddress:198.70.36.95

**2. Replace ALL contacts with:**

Gina Keesling  
13849 N 200 E  
Alexandria, IN 46001  
765-724-7004 • fax 765-724-4632  
email: horseshoestuff@iquest.net

Signed:

  
Gina Keesling, owner  
Hoofprints

## Exhibit E-- Opposer's Old Use Mailing – Circa 1996

Looking Down 15"x11"  
C662 300 s/n by K. Worby

The New Dress 20"x16"  
B663 by A. Elsley

Mare and Foal in Buttercups  
E661 15.5"x21.5" by Munnings

Friends 7.5"x10.25"  
B551 signed by M. Burr

Scotch Bar Lochinvar 13"x15"  
B664 500 s/n by K. Thumm

HOOF PRINTS

*Specializing in affordable horse, dog, cat & fox prints!*

The Bored Members 15"x21"  
K666 200 s/n by N. Pellatt

Hunter 8"x10"  
B52 signed by Mike Burr

Using the Mark



## Exhibit F-- Opposer's Fall 2012 Mailing

### Catalog

**Farriers' Greeting Cards**  
**HoofPrints.com**  
*Unique Products for Equine Enthusiasts & Farriers*

Dear Santa:  
*Is it too late to be good?*  
**HOLIDAY CARDS**  
*Is it too late to be good?*  
Page 5

**JEWELRY**  
Copper Hoofprint  
Healing Bracelet  
Page 10

**HORSE WOMEN**  
Ride the Wind Sculpture Page 13

**CHRISTIAN PRODUCTS**  
Horse Sense Coaster Set  
Page 2

**Holiday Edition**  
[www.hoofprints.com](http://www.hoofprints.com)  
800-741-5054

**BLACKSMITH SHOP**  
NEW SHOES 75¢ A HOOF  
RE-SETS 55¢ A HOOF

## Jewelry Web Page

### Farriers' Greeting Cards - Hoofprints Website Navigator

[Home](#) | [Inspirational/Spiritual](#) | [Horse Lovers](#) | [Dog Lovers](#) | [Art Prints](#) | [Gifts](#) | [Free Catalog](#) |  
[Greeting Cards](#) | [Sympathy](#) | [Sportswear](#) | [Business](#) | [Education](#) | [Closeouts](#) | [View Shopping Cart](#) |

Last updated on 8/26/12

Search keywords or item #

GO

### HoofPrints Farrier, Horseshoe & Hoof Jewelry

This is the most diverse collection of horse and horseshoe jewelry that you will find anywhere. We've got pieces from a wide range of artisans (most of which are horse owners) in all styles and price ranges. Pictures are not to scale, and sizes listed are approximate.



Horse Lovers Jewelry



Pony Girl & Epona Jewelry



Christian Jewelry



Farrier, Horseshoe & Hoof Jewelry



Horse Heart Jewelry



Jewelry Boxes



Inspirational Jewelry



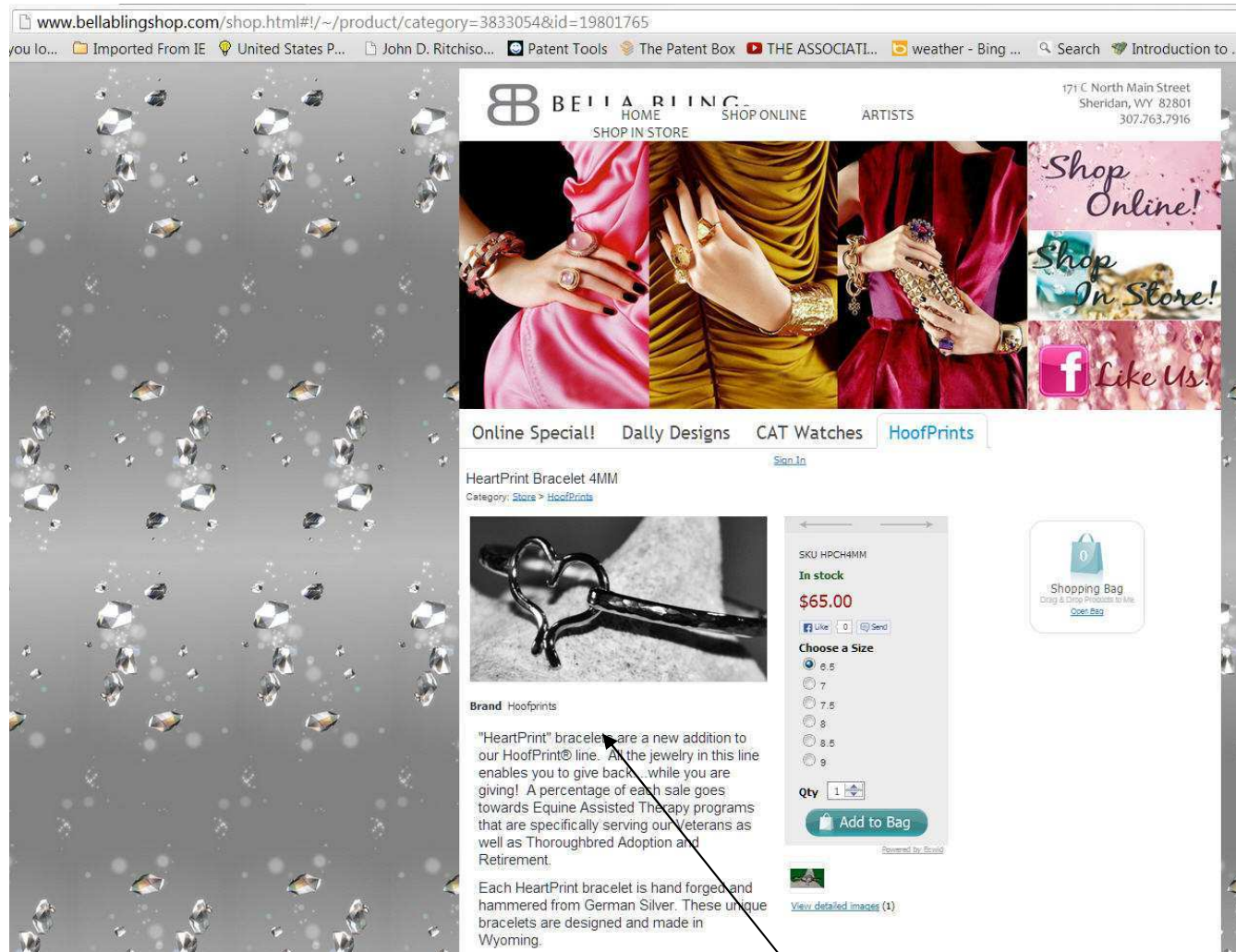
Dog Lovers Jewelry



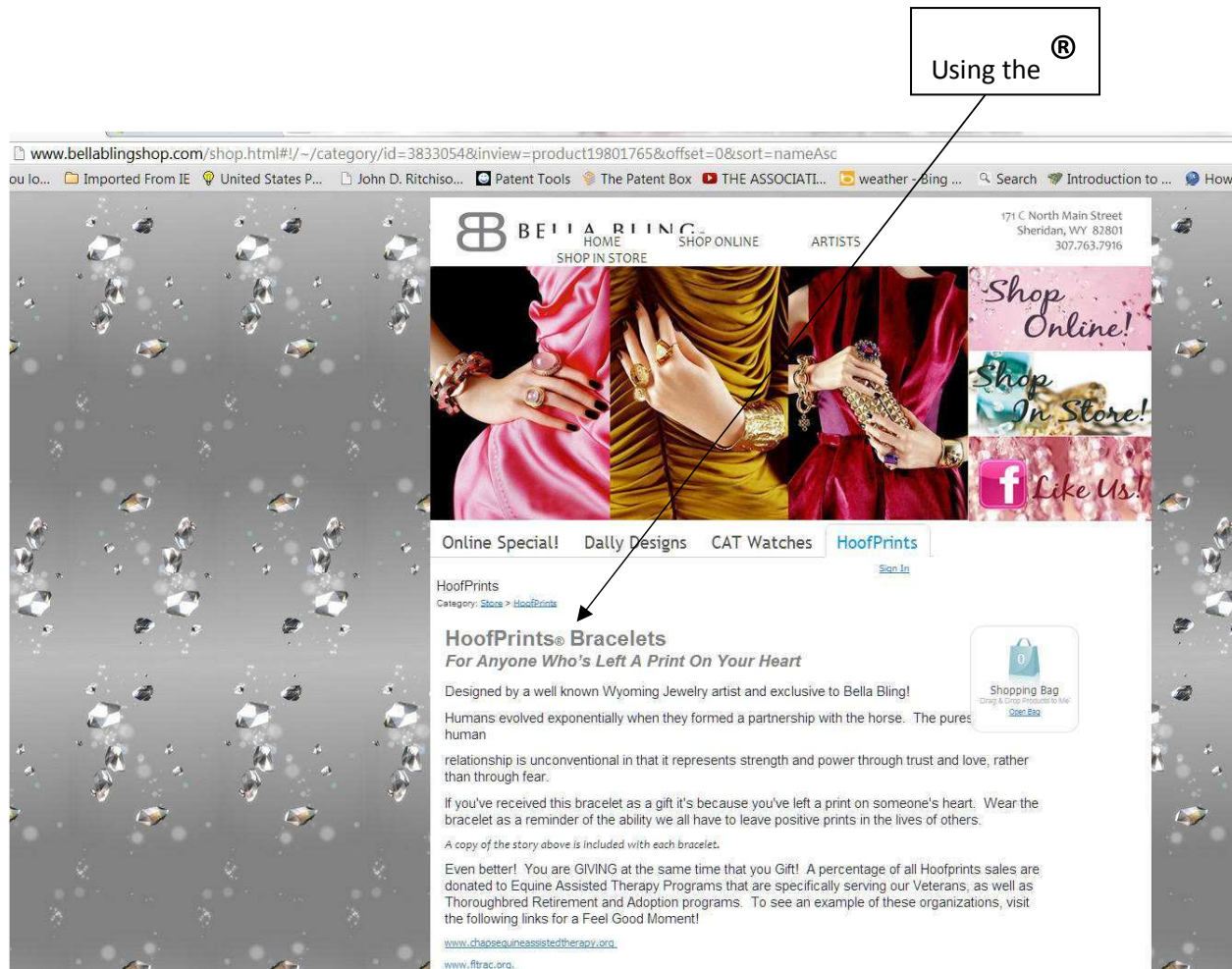
Keychains & Useful Stuff



## Exhibit G-- Applicant's Misuse on Website



## G. Applicant's Misuse on Website continued





# Exhibit H -- Applicant's Signature Page

PTO Form 1478 (Rev. 9/2006)  
OMB No. 0651-0099 (Exp. 12/31/2014)

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 85751592

Filing Date: 10/11/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The applicant's current Correspondence Information:

Matthew H. Swyers, Esq.  
The Trademark Company  
344 Maple Avenue West, Suite 151  
Vienna, Virginia 22180  
800-906-8626 x 100(phone)  
270-477-4574(fax)  
admin@thetrademarkcompany.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Matthew H. Swyers/ Date Signed: 10/11/2012

Signatory's Name: Matthew H. Swyers

Signatory's Position: Attorney of Record

RAM Sale Number: 1039

RAM Accounting Date: 10/12/2012

Serial Number: 85751592

Internet Transmission Date: Thu Oct 11 14:39:11 EDT 2012

TEAS Stamp: USPTO/FTK-97.67.147.154-2012101114391114

7175-85751592-490aca8e8a4e85bbe69b355d21

ade1b917-CC-1039-20121011143446006985

## Exhibit I -- Opposer's Approved Extension to Oppose

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

John D Ritchison  
RITCHISON LAW OFFICES, PC  
115 E 9 TH ST- STE A  
ANDERSON, IN 46016

Mailed: March 19, 2013

Serial No.: 85751592  
ESTTA TRACKING NO: ESTTA527495

The request to extend time to oppose is granted until  
5/19/2013 on behalf of potential opposer **GinaKeesling**

Please do not hesitate to contact the Trademark Trial and  
Appeal Board at (571)272-8500 if you have any questions  
relating to this extension.

### Note from the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to  
oppose, notices of opposition, petition for cancellation, notice  
of ex parte appeal, and inter partes filings are now available  
at <http://estta.uspto.gov>. Images of TTAB proceeding files can  
be viewed using TTABVue at <http://ttabvue.uspto.gov>.